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FM AMEMBASSY MANILA
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C O N F I D E N T I A L MANILA 005098

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E.O. 12958: DECL: 12/28/2016
TAGS: [PREL](#) [MARR](#) [CASC](#) [RP](#)
SUBJECT: MARINE CASE: APPEALS ACTION NOT LIKELY UNTIL NEW
YEAR

REF: MANILA 5083 AND PREVIOUS

Classified By: A/DCM Scott Bellard, reasons 1.4 (b) and (d)

11. (C) In a meeting with A/DCM on December 28, Presidential Legal Counsel Sergio Apostol confirmed that the Solicitor General planned that day to file another motion to the Court of Appeals, calling for an immediate decision on the custody of Lance Corporal Daniel Smith, in response to the Solicitor General's previous motions (refs). He admitted that the chance that the three Appeals justices would meet on December 29 was low, however, in light of the upcoming long New Year's weekend. He predicted that the earliest the Court might make a decision would be during the first week in January. He indicated that the final decision on custody would likely go to the Supreme Court, which was unlikely to meet until o/a January 15. He reiterated the full support of the Philippine government for the Visiting Forces Agreement, and maintained that Philippine authorities were taking every step possible to ensure a prompt and favorable judicial decision on the custody issue, while noting that the government would be on the other side during LCpl. Smith's appeal to the Court of Appeals on the verdict itself.

12. (C) LCpl. Smith's attorney separately on December 28 expressed to A/DCM his pessimism about an early decision by the Appeals Court, and predicted that the Court would either deny the Solicitor General's motions or refer the issue to the Supreme Court directly for decision.

13. (SBU) LCpl. Smith remains at the Makati City Jail, in good health and spirits, guarded at all times by representatives from the III MEF. Jail authorities are fully cooperative. He has received numerous gifts and food items from members of the Embassy community as well as from the general public.

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